

# BICS' End-User Terms of Service in France

IMPORTANT – READ CAREFULLY

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## 1. Definitions and Scope

### 1.1. Definitions

In this Agreement the following capitalised terms used herein are in both the singular and plural form and shall have the following meanings:

**Account:** refers to the End-User account for the use of Company Software / Solution.

**Affiliate:** any corporation, company or other entity that directly or indirectly controls, is controlled by, or is under common control with, BICS. For this definition, the word "control" shall mean having (50%) or more of the votes in such entity, is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

**Agreement:** these terms of service ("Terms of Service"), together with all updates applicable to End-User use of the Service.

**API (Application programming Interface):** A software intermediary that will allow Company's applications to order and manage Numbers or send voice calls to BICS' network in order to terminate to mobile or fixed networks where applicable.

**BICS:** Belgacom International Carrier Services SA (BICS), BICS' affiliates, its officers, staff and its authorized agents and partners

**Company:** means the End-User's software/solution provider which is acting on behalf of the End-User to enable BICS Telecommunication services

**Company Terms of Use :** means the terms of use, restricted between Company and the End-User for:

(i) The licence to use the Software/solution and (ii) the extent applicable for the provision and use of Calls to mobiles and landlines, Messages and other such products as designated by Company.

**Data:** refers to the information that End-User or Company communicated to BICS when the End-User subscribed to Company Service, such as End-User last name, first names, home address, telephone numbers, and bank details ("**End-User Data**"), as well as the connection data and other regulatory and technical information collected during End-User use of Service.

**Access to Emergency Services:** refers to services that puts the End-User in touch with public emergency services, following the applicable national regulatory obligations. The data submitted to the national database is based on the Personal Data and Traffic Data provided to BICS, by Company on behalf of the End-User.

**End-User:** means legal or natural person who enters into this Agreement and will effectively use the Number(s).

**MyNumbers Portal:** Company access to BICS' Number service management portal.

**Number:** refers to the telephone number, as defined in the national numbering plan, allocated to the End-User by BICS, for the use of the Service.

**Public Switched Telephone Network (PSTN):** Analog telephone network which is configured to enable telephone communications among the subscribers of such network by connecting telephone lines to switching facility.

**Service:** Management of telecommunications service of a personal number by Company in End-User name and to End-User by BICS, and according to applicable national regulatory obligations & restrictions.

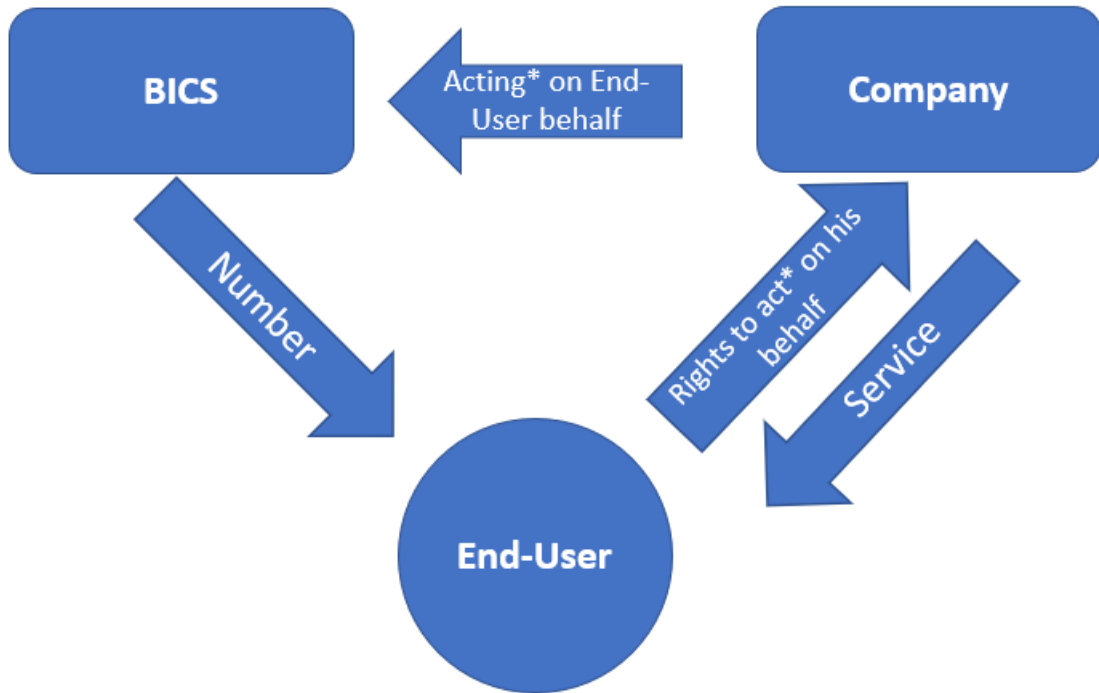
**User License:** refers to the License that is given to the End-User by Company in order to use Company Software / Solution.

**Messages:** means Company feature which allows The End-User to enable voice or SMS messages from/to mobiles and landlines.

**Software / Solution:** means the software or solution distributed by Company for internet communications / VoIP communication, enabling their End-User to use the Service, including without limitation any subsequent programming fixes, updates, upgrades and new versions of such software / solution provided by Company.

### 1.2. Scope

This Agreement specifies the rights and responsibilities of BICS and the End-User regarding the provision and the use of the Service that BICS provides on its own or in collaboration with Company or a third party according to the National regulations in the respective country, where Company requested a Number from BICS for End-User on his behalf.



\* actions provided for in this Agreement (i.e., ordering Number(s), porting out Number(s), providing End-User Data to BICS, etc.)

## 2. Term, Suspension, and Termination

### 2.1. Term

This Agreement takes effect on the date of acceptance by End-User of the telecommunication services thereof by clicking on the accept button or similar buttons or links or by providing a Letter of Authorization (LOA), as may be designated by Company or the date of first use of the Service by the End-User, whichever occurs earlier, and will remain effective until the end of the term for the Service as defined in Article 3, unless terminated by either BICS, Company or the End-User as set out below.

### 2.2. Suspension and Termination by BICS

Without limiting other remedies, and without being liable for the consequences thereof, BICS or its Affiliates may suspend or terminate the Agreement in whole or in part or any Service or any part thereof automatically, with immediate effect and without recourse to the courts if:

- a. A request for such suspension or termination was made by an administrative or law enforcement agency, or local regulatory authority, or a court with lawful mandate; or
- b. BICS is of the opinion that the End-User is in breach of these Agreement or fails to comply with any reasonable requirements of BICS in relation to the use of the Service; or
- c. BICS ceases to make the Service or any part thereof available for any reason; or
- d. BICS is unable to continue the Service due to a change in regulations affecting the Service; or
- e. Any agreement between Company and BICS is terminated relating to the provision of the Service; or
- f. The End-User has acted against the law or have been held civilly liable for any matter; or
- g. The End-User has infringed the honour, credibility, or any other just interest of the BICS or Company or other users or third party; or
- h. The End-User has participated in fraudulent, immoral or illegal activities; or
- i. There is fraud, misuse, or unauthorized use of the Service by any person, regardless of whether the End-User has consented to or had knowledge of such fraud, misuse or unauthorized use; or
- j. The End-User has infringed the intellectual property rights' of a Company or any third party; or
- k. for other similar reasons.

BICS shall terminate this Agreement by preventing Company to provision Numbers on MyNumber Portal/API's, for End-User.

### **2.3. Termination by the End-User**

Company may on behalf of the End-User, request termination of the Agreement at any time and for any reason, and BICS shall take immediate steps to comply with such request unless there is any unsettled liability or any legal obstruction.

### **2.4. Consequences of Termination**

Upon termination of the Agreement for any reason, all licenses, and rights to use a Number and the Service shall terminate and the End-User will cease any and all use thereof.

### **2.5. Continuation of obligations**

All provisions that are intended to carry on by virtue of their context will be continued beyond the expiration or termination of this Agreement, including and without being limited to all obligations concerning the End-User representations, warranties, and indemnification obligations.

## **3. Service description and features/Numbering Resources**

### **3.1. Allocation of the Number**

If the End-User is eligible for a Number, BICS will allocate it to the End-User as soon as reasonably possible after the receipt of the End-User request by Company. Numbers made available to the End-User for use, are provided without charge by BICS to the End-User, although the End-User will be charged by Company as part of its Software / Solution Terms & Conditions.

If a Number is allocated to the End-User by BICS, on request of the End-User or on request of Company on behalf on End-User, the right to use that Number and the cancellation of such right will be exercised by BICS or Company respectively at his sole discretion - additional Company Terms of Use will apply in such circumstances.

### **3.2 No guarantee**

BICS shall endeavour to allocate the Number and enable the End-User to be called on this number by Mobile and landlines Users, or to use the End-User's Number for the purposes of Company Software / Solution, as applicable and technically possible. However, BICS cannot guarantee that the requested Number(s) can be allocated or assigned to the End-User, or that the End-User can make use of Service.

### **3.3 Refusal, change, withdrawal or reallocation of Numbers.**

Without any liability to the End-User, BICS reserves the right to refuse, withdraw, change or reallocate such Number at any time for any reason, subject to contrary directions by the relevant authority and any contrary terms contained in BICS's telecommunications licence.

In particular, without limiting the generality of the foregoing, BICS reserves the right to immediately withdraw the Number should the End-User violate the law, or the terms of this Agreement, or the instructions given by BICS and/or Company, the requirement accurately to verify the area of the End-User residency (see Article 4.2) or the requirements of the relevant national number plan or it is deemed necessary by BICS for the operation of Service.

In case BICS changes the Number allocated or assigned to the End-User, the End-User will be notified of the effective date of such change and a new Number by Company. If the End-User do not want to accept the new Number, the End-User can revoke its Number with a notification to Company in writing or by email according the Company Terms of Use.

### **3.4 Portability**

In accordance with the provisions of the applicable regulations, the End-User has the right to keep its Numbers when changing telephony operators and as such port its Number to another telephone operator by sending a request to this effect to the telephone operator of End-User choice. Company, on behalf of the End-User, can initiate a port-in for the End-User's Number. To port out the End-User Number, The End-User new Service Provider can initiate the port-out request.

### **3.5 No rights in Number**

The End-User will not acquire any rights in any Number allocated or assigned to the End-User. The End-User acknowledge and understand that the provision of the Service and allocation of Number hereunder does not in any way imply or constitute any transfer of intellectual property rights with regard to the Number or Service. The End-User may not transfer or collateralize the Number assigned to the End-User by BICS or someone designated by BICS to a third party without the BICS's prior written approval.

### **3.6 Voice or SMS messages**

In case Voice and/or SMS messages is offered in connection with Service hereunder, the End-User acknowledge and agree that such product is provided by Company, and that the End-User must accept and agree to Company Terms of Use for the End-User right to use Voice and/or SMS messages.

## **4. Obligations**

### **4.1. Use of the Service**

the End-User agree to use the Service in accordance with this Agreement and applicable and relevant legislation, in particularly but not limited, regarding residency and geographical usage restrictions that may apply from time-to-time.

In the absence of any error by BICS, the End-User is solely responsible for the use of the Service, as well as for all consequences, notably financial, resulting from it. In particular, the End-User must ensure that no one has access to the Service without its authorization and ensure the confidentiality of its Username and its Password.

In addition, the End-User guarantee that they will comply with any reasonable instructions given by BICS or Company with regard to the use of the Numbers and that the End-User will comply with the requirements of the relevant national numbering plan. the End-User cannot use the Service to receive reverse-charge or collect calls.

#### **4.2. Data**

The End-User or Company will be required to provide BICS in good time with any Data or information necessary for a proper provision of the Service. In particular, the End-User agree to provide true, accurate, complete and up to date information with regard to the End-User's place of residence and its use of the Number, and all such other information necessary in respect of the provisions of the national numbering plan as may reasonably be required from time-to-time by BICS.

Upon requesting a Number, the End-User will be required to self-verify that the End-User is resident in the area matching the geographical-prefix of Number the End-User select, before any Number can be allocated to the End-User. The same logic is applied, upon request for any other Number Type (Mobile, Toll-Free, ...) that would be allocated to the End-User.

Consequently, the End-User or Company must inform BICS immediately of any change to this Data, notably any change to bank or address details. Otherwise, the Service will not be activated, or, in the case of changes to details not being communicated, BICS may suspend the End-User access to the Service in accordance with article 2.2.

#### **4.3. No Transfer and No Assignment by the End-User**

The End-User is not authorized to neither transfer nor assign this Agreement, or any rights hereunder, to any third party.

#### **4.4. Prohibition of Resale**

The End-User agree not to resell and lease the Service to any third party and shall be solely responsible for any consequence of such unauthorized commercial activity. Additionally, if BICS has suffered a loss or damage as a result of unauthorized commercial activities on the End-User's part, the End-User has the responsibility to indemnify BICS for damage, and BICS can seek compensation through legal procedures in addition to suspending the End-User Service.

#### **4.5. Lawful Purposes**

The End-User shall comply with the national law, other applicable law and the reasonable instructions of BICS relating its use of the Service.

The End-User acknowledge and agree to use the Number and Service solely for lawful purposes so as not to breach public order and good moral standards or the rights of third parties. In this respect the End-User is prohibited, without limitation, to use its Account, Number or Service for any improper, immoral, defamatory or fraudulent purpose or for any unsolicited advertising messages or promotions nor allow others to do so, or get involved in any unwanted profane, offensive, obscene or sexual exchanges or to attempt to harm a young person in any way. The End-User shall also not act in such a way that the operation of other lawful telecommunications services or equipment or the provision of Service will be jeopardized or impaired.

#### 4.6. Indemnity

The End-User agree to indemnify, defend, and hold BICS and its Affiliates, officers, employees, agents or sub-contractors harmless from against any and all third-party claims, actions, proceedings and costs, including but not limited to reasonable legal' s fees, incurred by BICS arising out of or relating to any inaccurate or incomplete Data provided by the End-User hereunder, its violation of the instructions given by BICS or Company, including instruction related to the requirements of the relevant national numbering plan, its violation of the Agreement, applicable law or rights of any third parties and/or the misuse of the Number or Service.

The End-User also agree to indemnify BICS for the general damage inflicted by the End-User knowingly or negligently on BICS.

#### 5. Billing and Payment Policy

The service BICS is offering to the End-User, is agreed by the End-User by accepting Company's service plan, service plan payment and Terms and conditions.

#### 6. Privacy, End-User Data and Technical information

##### 6.1. Privacy Policies

The Data that the End-User provide when the End-User purchase the Number Service from Company is intended for BICS and Company, which are responsible for its processing. Company declaration of respect for privacy applies to the processing of the End-User Data by Company. The following terms apply to the processing of the End-User Data by BICS.

BICS will only process the End-User Data in order to provide the End-User with the Service, enhance and optimize its quality, comply with its legal and regulatory obligations in the respective country, inform the End-User of information relating to Service, and, if the End-User have given its express consent, inform the End-User of any commercial offers that might interest the End-User. For these purposes, the End-User agree for its Data to be stored, processed, and transferred by BICS to its subcontractors, which can only access the End-User Data in order to fulfil certain duties that are indispensable to providing the local service, in strict respect of the End-User rights in terms of personal data protection. The End-User also agree that all information concerning the End-User may be communicated to the competent authorities as part of a judicial or administrative investigation, in respect of laws and procedures. Finally, the End-User agree for its Data to be transferred to Company, in respect of its declaration of respect for privacy.

**BICS' privacy policy is drafted in accordance with the applicable legislation** concerning the End-User personal data and the use thereof, and more specifically in accordance with Belgian and European law. BICS' privacy policy is available on <https://www.bics.com/privacy-policy/>

##### 6.2. Security Measures

BICS has implemented the industry standards security measures legally required for processing and retention of Data. BICS also has implemented all technical measures and means available, with a view to preventing the loss, inappropriate use, alteration, unauthorized access, or theft of this Data. However, the End-User understand and acknowledge that these measures cannot avert all risks.

##### 6.3. Compensation

Neither BICS nor Company may be held responsible for any damages incurred by the End-User or by anyone else as a result of any inaccuracies in Data communicated by the End-User or Company, or due to any breach on the End-



User part of instructions given by BICS or Company, or more generally due to any breach of this Agreement, current laws, or the rights of third parties.

#### **6.4. Rights**

The End-User have the right to access, correct, restrict, delete and object to the processing of the End-User Data held by BICS, according to BICS' privacy policy and the Company Terms of Use .

BICS will respond, within a reasonable period of time, and as far as possible, to any request made by the End-User or Company in relation to the processing of the End-User Data, and to grant the End-User the above-mentioned right, in accordance with the applicable European and national regulations.

### **7. Exclusions of Warranties and Liabilities**

#### **7.1. No Liability for Content**

The End-User acknowledge and understand that BICS does not control, or have any knowledge of, the content of any communication(s) received by the use of Service. The content of the communication is entirely the responsibility of the person from whom such content originated. Therefore, the End-User may be exposed to content that is offensive, illegal, harmful to minors, indecent or otherwise objectionable.

BICS shall not be liable for any type of communication received by means of Service. BICS disclaims any and all responsibility or liability in relation to the content made available through the Service or any content, product or services provided by third parties. Neither BICS nor its Affiliates, employees, agents or sub-contractors may be held liable whether in the Agreement, warranty, tort (including negligence), or any other form of liability for any claim, damage, loss (and the End-User hereby waive any and all such claims or causes of action), arising from or relating to all such content, products or services.

#### **7.2. No Liability for Access to Emergency Services**

Considering that the Service is designed to allow user to receive and make outbound calls to the PSTN. The Service is also intended to support or carry emergency calls to any emergency services based on the national regulations and restrictions. Company will provide the required Data for BICS to process the request. Neither Company, BICS nor its Affiliates, employees, agents or sub-contractors may be held liable whether in the Agreement, warranty, tort (including negligence), or any other form of liability for any claim, damage, loss (and the End-User hereby waive any and all such claims or causes of action), arising from or relating to the End-User inability to use the Service to contact emergency services, and the End-User failure to make additional arrangements to access emergency services in accordance with the first paragraph of the Agreement as set out above. In the event of failure, BICS will act according to the defined industry standards and SLA's agreed between BICS and Company,

#### **7.3. No Liability for Defect of Company Software / Solution**

BICS shall not be responsible for any service failure or damages suffered by The End-User caused by the errors or defects of Company Software. Any damages caused by Company Software errors or defects must be resolved between The End-User and Company according to the contract made between them.

#### **7.4. No Liability for Acts by the End-User, Third Party and Other Instances**

BICS cannot be held responsible for any service failure or damage incurred by causes attributable to the End-User, or by an error on its computer, leakage of the End-User Username or User ID and Password, or the End-User false or inaccurate statement of such as providing bogus personal information, email address, etc.

BICS shall not be liable for any damages arising from information obtained during a call or while using the Service. In addition, BICS shall not be liable to compensate for the psychological damage incurred by other user while using the Service.

BICS is not obligated to intervene in any dispute between the End-User, Company and a third party related with the Service provided by BICS and also has no obligation to indemnify for any damage incurred by such dispute.

Without limiting the generality of the above, BICS and other third-party suppliers, including without limitation any information provider, shall not be under any liability whatsoever (whether in tort or contract or otherwise) the End-User or to any person for any cost, expense, loss, damage or compensation arising out of or in connection with any incorrect record, omission, transmission, communications, mixing or divulging of messages or any destruction of messages.

#### **7.5. No Exclusion of Liability**

Nothing in this Agreement is intended or exclude or restrict or shall be construed as excluding or restricting the Party's liability for:

- a. Their own fraudulent or abusive acts or omissions; or
- b. The death or personal injury caused by the negligence of the Parties, their Affiliates, employees, agents or sub-contractors; or
- c. Any liability which cannot be limited or excluded by law.

### **8. Limitation of Liability**

Except as otherwise further limited herein, each Party's liability under this Agreement shall be limited to compensation of actual, direct, personal, and foreseeable damage or loss suffered by the other Party (including damage or loss caused by the employee(s) and/or the contractor(s)), and shall not include indirect, consequential, special or punitive damages including but not limited to loss of profits or income, additional expenses loss of customers, loss of or damage to data or loss of contracts, loss of time or loss of business.

Each Party's liability shall be limited to five thousand euro (€5.000) for the total amount of damages occurring in the course of a single year.

With respect to previous paragraph the End-User shall be liable without limitation for the wilfully committed fraud.

### **9. Force Majeure**

#### **9.1. Force Majeure Event**

A force majeure event means any event beyond the control of BICS or Company including, but not limited to, an act of God, act of government, insurrection or civil disorder, war or military operations, national or local emergency, a serious and sustained power outage or severe Internet service disruption, lightning or fire, flood, subsidence, or weather

conditions of exceptional severity, and the inevitable risks that may arise from the technology and from the complexity of its implementation.

The End-User acknowledge and understand that the Service will not function in the event of a force majeure events and that BICS cannot be considered to have failed to fulfil or in breach of any of its obligations under such circumstances.

## **9.2. Consequences of Force Majeure**

In the event BICS is affected by a force majeure event, it shall notify Company of the estimated extent and duration of its inability to perform or delay in performing its obligations, on a reasonable efforts basis. BICS, its Affiliates, employees, agents or sub-contractors shall not have any liability to the End-User whether in the Agreement, warranty, Tort (including negligence), or any other form of liability for failing to perform its obligations under this Agreement to the extent that such failure is as a result of a force majeure event.

## **10. General Provisions/ Miscellaneous**

### **10.1. Amendment of the Agreement**

BICS reserves the right to amend unilaterally all or part of this Agreement to secure and improve the Service provided by BICS and Company to the actual End-User. BICS or Company may inform by mail the End-User directly, at least one month before the changes come into force, under condition the End-User contact info is available and shared by Company on MyNumbers Portal/API's.

BICS will not inform Company or End-User of the amendments under the following conditions:

1. Are exclusively for the benefit of the End-User;
2. Are purely administrative in nature and have no negative impact on the End-User; or
3. Result directly from the applicable legislation.

Any planned amendment to the Agreement will be published on [www.bics.com](http://www.bics.com) and will enter into force one month after publishing.

### **10.2. Adjustment of the Service**

BICS reserves the right to adjust the Service at any time, for example to comply with a legal or regulatory obligation, without being liable for the consequences.

If the End-User do not wish to accept the adjusted Service, the End-User is entitled to terminate its Account by contacting Company to terminate the Number and Service accordingly. BICS and Company will ensure the termination process is executed in timely matter and according to national regulation in the respective country.

### **10.3. Partial Invalidity**

Should any term or provision hereof be deemed invalid, void or unenforceable either in its entirety or in a particular application, the remaining parts of this Agreement and the terms and provisions thereof shall nonetheless remain in full force and effect.

**10.4. No waiver**

The failure to exercise, or delay in exercising, a right, power or remedy provided by the Agreement or by law shall not constitute a waiver of that right, power or remedy. If BICS waives a breach of any provision of the Agreement this shall not operate as a waiver of a subsequent breach of that provision, or as a waiver of a breach of any other provision.

**10.5. Transfer and Assignment by BICS**

BICS is authorized, at its sole discretion, to transfer or assign this Agreement or any rights hereunder to any Affiliate, Company, or any other third party without giving prior notice.

**10.6. Correspondence**

In all correspondence, the End-User agree to mention the End-User's last name, first name and Username or User ID so that the End-User can be identified and the End-User request can be dealt with. Any incomplete request cannot be dealt with by Company or BICS.

**10.7. Complaints**

Should the End-User have any kind of complaint, the End-User can contact Company, according to the agreed Terms, conditions and Etiquette with Company. Company will open with BICS and manage with the End-User its complaint according to the national industry standards

**10.8. Applicable law**

This Agreement shall be governed by and construed in accordance with the laws of Belgian without giving effect to the conflict of laws provisions of Belgian or the End-User actual state or country of residence.

**10.9. Jurisdiction**

Any dispute concerning the formation, interpretation, or execution of these terms will in the first instance be subject to an amicable settlement between the Parties.

If this process fails, the End-User can submit a complaint free of charge to the NRA or the relevant ombudsman in accordance with the dispute resolution scheme applicable in the respective country.

Any legal proceedings arising out of or relating to Agreement shall be subject to the jurisdiction of the Brussels courts.

**10.10. Language**

The original English version of this Agreement may have been translated into other languages. In the event of inconsistency or discrepancy between the English version and any other language version of this Agreement, the English language version shall prevail.